

basking in the glory of the University of North Carolina's crowning as the 2004–2005 NCAA Division I Men's National Basketball Champions.

All season long, the Tar Heels were touted as the most talented players in the country, but some questioned whether the team could win it all. Monday night they proved any remaining doubters wrong. After playing 40 minutes of inspired basketball, the Tar Heels showed that they have the heart, the team spirit, and the determination of true champions.

North Carolina established itself long ago as one of the elite programs in college basketball history. But with their fourth national chairmanship win on Monday, the Tar Heels proved they are back among today's elite.

We hope and expect this year's run will be the first of many under native son Coach Roy Williams, who led the Tar Heels back to victory in just his second year back at his alma mater.

The victory was especially sweet for North Carolina's three seniors, who have helped lead an impressive comeback from their freshmen year challenges to the glory of their final game.

Three ACC schools, Mr. Speaker, are located entirely or partly in North Carolina's Fourth District, so I am no stranger to divided loyalties! But last night's victory is something all North Carolinians can feel proud of. That include this proud alumnus, and my staffers, who are still radiating Carolina blue, thanks to an inspirational team who has made us all proud. Go Heels!

#### ANSWERING CONSTITUENTS' CALLS TO STRENGTHEN SOCIAL SECURITY

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, throughout the Second District of South Carolina, people are eager to discuss how to improve our Social Security System. After conducting over 20 town hall meetings with constituents of all ages about this issue, I am more convinced than ever we need to strengthen Social Security.

At the University of South Carolina and Claflin University, college students who are already paying into the system said they want the option of personal retirement accounts, which they can currently calculate at [www.heritage.org](http://www.heritage.org).

While senior citizens on Hilton Head Island understand that their benefits are secure, they are concerned their children and grandchildren will not receive the money they contribute. And baby boomers of Bluffton wish they had been offered the opportunity to participate in personal retirement accounts years ago.

Their opinions and suggestions reemphasize the urgent need for Congress to strengthen Social Security now, protecting persons over 55 in the system and providing retirement accounts for younger workers.

In conclusion, God protect Ukraine, God bless our troops, and we will never forget September 11.

#### SOCIAL SECURITY

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, this year, the United States Government will collect \$170 billion more in social security taxes than it needs to pay current benefits. That is \$300,000 a minute from the working men and women and small businesses of America. And that money is being used to buy Treasury bonds. It is being put away under the premise that we are creating a trust fund. The full faith and credit of the United States Government backs those bonds.

Now, the President is questioning the full faith and credit, and he is saying there is no trust fund. Now, if the President is right and there is no trust fund, then we should stop taking \$170 billion from the working men and women under a false premise. That would be fraud.

We have to do either one of two things: lower the tax on working men and women in this country and small businesses, or honor the trust fund and the debt of the United States of America. I think there is only one choice, and that is to honor the debt of the country. But we have a President who is saying he might not.

Who is he going to pay first? The Chinese, the Japanese? Is he going to pay off his Treasury bonds first and then default on the savings of the working people of this country?

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Mr. Speaker, it is an outrageous and reckless statement of the President of the United States to make, and if the bond markets believed the President, there would be an economic catastrophe today.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BOOZMAN). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

#### REALTIME INVESTOR PROTECTION ACT

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1077) to improve the access of investors to regulatory records with respect to securities brokers, dealers, and investment advisers, as amended.

The Clerk read as follows:

H.R. 1077

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Realtime Investor Protection Act".

#### SEC. 2. CONSTITUTIONAL AUTHORITY.

The constitutional authority on which this Act rests is the power of Congress to regulate commerce as enumerated in article I, section 8 of the United States Constitution.

#### SEC. 3. METHOD OF MAINTAINING BROKER/DEALER REGISTRATION, DISCIPLINARY, AND OTHER DATA.

Subsection (i) of section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(i)) is amended to read as follows:

"(i) OBLIGATION TO MAINTAIN REGISTRATION, DISCIPLINARY, AND OTHER DATA.—

"(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—A registered securities association shall—

"(A) establish and maintain a system for collecting and retaining registration information;

"(B) establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding—

"(i) registration information on its members and their associated persons; and

"(ii) registration information on the members and their associated persons of any registered national securities exchange that uses the system described in subparagraph (A) for the registration of its members and their associated persons; and

"(C) adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries in consultation with any registered national securities exchange providing information pursuant to subparagraph (B)(ii).

"(2) RECOVERY OF COSTS.—Such an association may charge persons making inquiries, other than individual investors, reasonable fees for responses to such inquiries.

"(3) PROCESS FOR DISPUTED INFORMATION.—Such an association shall adopt rules establishing an administrative process for disputing the accuracy of information provided in response to inquiries under this subsection in consultation with any registered national securities exchange providing information pursuant to paragraph (1)(B)(ii).

"(4) LIMITATION OF LIABILITY.—Such an association, or exchange reporting information to such an association, shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

"(5) DEFINITION.—For purposes of this subsection, the term 'registration information' means the information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information."

**SEC. 4. FILING DEPOSITORIES FOR INVESTMENT ADVISERS.**

(a) AMENDMENT.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking “Every investment” and inserting the following:

“(a) IN GENERAL.—Every investment”; and

(2) by adding at the end the following:

“(b) FILING DEPOSITORIES.—The Commission may, by rule, require an investment adviser—

“(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

“(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

“(c) ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

“(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—The Commission shall require the entity designated by the Commission under subsection (b)(1) to establish and maintain a toll-free telephone listing, or a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or rule to be reported) involving investment advisers and persons associated with investment advisers. Such information shall include information on an investment adviser (and the persons associated with that adviser) whether the investment adviser is registered with the Commission under section 203 or regulated solely by a State as described in section 203A.

“(2) RECOVERY OF COSTS.—An entity designated by the Commission under subsection (b)(1) may charge persons making inquiries, other than individual investors, reasonable fees for responses to inquiries made under paragraph (1).

“(3) LIMITATION ON LIABILITY.—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) Section 306 of the National Securities Markets Improvement Act of 1996 (15 U.S.C. 80b-10, note; Public Law 104-290; 110 Stat. 3439) is repealed.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

GENERAL LEAVE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1077 was introduced by the gentleman from Arizona (Mr. SHADEGG). It is a noncontroversial bill that will extend the ability of American investors to access information about security dealers.

In 1990, Congress ordered that the National Association of Securities Dealers make this information available to all investors through a toll-free number. Unfortunately, the authorization was not broad enough to extend to Internet access.

H.R. 1077 corrects this problem while maintaining toll-free telephone access to dealer information for those who prefer not to use the Internet. I urge Members to join me in supporting this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1077, the Realtime Investor Protection Act. This legislation will make it faster and easier for investors to obtain information about the brokers with whom they entrust their savings and retirement funds.

Since 1990, the NASD has been required to provide investors with registration information on individual brokers by toll-free telephone call or in writing. The system has provided valuable information on a broker's disciplinary history, including customer complaints, that an investor can use in selecting a broker.

While that system has worked well, the NASD would like to be able to provide this information directly to investors over the Internet where the information will be more accessible to investors and can be provided in a manner that will make it easier for investors to understand and compare among brokers.

Of the over 2.5 million plus inquiries the NASD received last year, approximately 96 percent were through the Internet, and less than 4 percent were by telephone. Because of the narrow language of the existing statute, however, NASD has not been able to put disclosure information online. Rather, investors must request and wait for a written disclosure report to be mailed or e-mailed to them.

Under the bill, the NASD would be required to make the information it maintains on brokers available to investors over the Internet, as well as by toll-free telephone call. The NASD would be held harmless for information disclosed or withheld in good faith through the expanded system, just as it is under the current statute for information provided over the telephone or in writing.

Additionally, the bill would require the NASD to establish an administrative process to address disputes over the accuracy of information, ensuring

procedural fairness and an opportunity for a broker to correct errors or dispute information provided by a securities firm to the NASD. The bill also authorizes the Securities and Exchange Commission to designate the NASD to provide investor access to registration information concerning investment advisers, providing investors with another potentially valuable source of information when shopping for a financial professional.

Mr. Speaker, given the extent to which consumers have come to rely on the Internet for the information they need in making financial decisions, it is clearly time to make this information more accessible to investors. I urge support for H.R. 1077.

Mr. Speaker, I reserve the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. SHADEGG), the author of the bill.

Mr. SHADEGG. Mr. Speaker, I rise in strong support of H.R. 1077, the Realtime Investor Protection Act.

As has already been indicated, this legislation will require the National Association of Securities Dealers to make its databases of complaints against broker-dealers publicly available on a secure Internet site and is relatively straightforward.

Let me explain, however, this is indeed a serious problem. I personally know of individuals whose entire wealth has been wiped out by fraud which could have been detected had these investors taken the time to research the broker-dealer they were dealing with in an appropriate manner.

As has been explained, the current law requires the NASD to maintain BrokerCheck. BrokerCheck is a system through which investors can research their broker-dealer before entrusting with them their hard-earned savings. But in light of Congress' increased focus on retirement security, I believe we should encourage Americans to, in fact, take advantage of BrokerCheck, and even go beyond that and to conduct their own research before making any investment decision.

BrokerCheck, as has been indicated by my colleague on the other side, provides these individuals with this information through a free check that can be accessed either over the Internet or by telephone. But because it is accessed over the Internet and by telephone, and requires that an inquiry be submitted and then a response prepared and that response sent back, the delay in getting this information can be anywhere between 10 minutes and as much as 2 days. This legislation goes at that problem and allows instantaneous access to this kind of information.

Through the current system and through the enhanced system this legislation will authorize, BrokerCheck will gather and make available online

on an instantaneous basis, and an investor can discover, whether or not their broker has a criminal record, has been subjected to a regulatory action by the Securities and Exchange Commission, and whether or not their broker has had consumer complaints filed against them.

While the current system is a good idea, as I indicated, it has not kept pace with technology. Today investors can only access the information by placing a request through the NASD's toll-free phone number or Website, and then must wait for a response. This legislation will update the system by requiring the NASD to make this information available through a secure Website on the Internet so investors can search for this information instantaneously.

NASD statistics bear out the need to utilize the Internet for this purpose. Let me give just a few statistics. Over 4.4 million requests for information were submitted to the BrokerCheck program in 2004, and 99 percent of these were submitted on the Internet through e-mail. Only 1 percent were by telephone. Clearly investors have figured out that the Internet is the proper mechanism for submitting this kind of inquiry and checking out their broker-dealer before they invest. But by having it require now a response from the NASD, rather than having the check be instantaneous, we are exposing investors to that 10-minute to 2-day delay during which they cannot access this information.

By making information accessible online, as H.R. 1077 does, it will be easier for individuals to research their broker-dealer and provide themselves with the information they need before they make an investment decision. I hope my colleagues share my interest in encouraging individuals to become more informed investors, and I urge a yes vote by all of my colleagues on the Realtime Investor Protection Act.

I appreciate the comments of the gentleman on the other side in support of the legislation, the comments of the gentlewoman from New York (Mrs. KELLY), and the support of the Committee on Financial Services.

Mr. OXLEY. Mr. Speaker, I rise in support of the Real-time Investor Protection Act and would like to commend my good friend from Arizona, Mr. SHADEGG, for his excellent work on this important legislation.

Informed investors are critical to our Nation's markets. Ready access to complete information about securities firms and brokers is critical to informing investors and building investor confidence. NASD, the self-regulatory organization for broker-dealers, has been providing this information to the public since 1990 when Congress mandated that NASD make relevant portions of the information available to the public without charge through a toll-free telephone number.

At the time, the telephone was the easiest and most convenient solution. However, inves-

tors today have embraced the Internet as their preferred means of obtaining information. Therefore NASD seeks to use the Internet to disseminate this information. Investors want and need online access to disclosure of information to assist them in deciding whether to do business with a securities firm or broker.

When Congress mandated that NASD release this information, it accorded NASD immunity from liability for the release of such information to the public—recognizing that the disclosure of key information about securities firms and brokers is a critical part of NASD's regulatory and investor protection mission.

I would like to clarify that under prevailing Federal case law there is no private right of action against NASD for acts or omissions taken pursuant to its regulatory responsibilities under the Federal securities laws. I want to be clear that this legislation is not intended to change existing law pertaining to private rights of action under those laws. In addition, courts have historically granted NASD absolute immunity for its regulatory actions. This legislation is not intended to limit NASD's immunity for regulatory actions.

I urge all of my colleagues to support this bipartisan investor protection bill.

Mr. SCOTT of Georgia. Mr. Speaker, I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1077, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

#### INCREASED CAPITAL ACCESS FOR GROWING BUSINESS ACT

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 436) to amend the Investment Company Act of 1940 to provide incentives for small business investment, and for other purposes.

The Clerk read as follows:

H.R. 436

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Increased Capital Access for Growing Business Act".

#### SEC. 2. AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940.

(a) DEFINITION OF ELIGIBLE PORTFOLIO COMPANY.—Section 2(a)(46)(C) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(46)(C)) is amended—

(1) by striking clause (i) and inserting the following:

“(i) it does not have any class of equity securities listed for trading on a national securities exchange or traded through the facilities of a national securities association as described in Section 15A of the Securities Exchange Act of 1934;”;

(2) by striking “or” at the end of clause (iii);

(3) by redesignating clause (iv) as clause (v); and

(4) by inserting after clause (iii) the following new clause:

“(iv) the aggregate value of its outstanding publicly traded equity securities is not more than \$250,000,000, except that the Commission may adjust such amounts by rule, regulation, or order to reflect changes in one or more generally accepted indices or other indicators for small business, consistent with the public interest, the protection of investors, and the purposes fairly intended by the policy and provisions of this title; or”.

(b) ASSETS OF BUSINESS DEVELOPMENT COMPANIES.—Section 55(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a-55(a)(1)) is amended—

(1) in subparagraph (B), by striking “securities with respect to which a member of a national securities exchange, broker, or dealer may extend or maintain credit to or for a customer pursuant to rules or regulations adopted by the Board of Governors of the Federal Reserve System under Section 7 of the Securities Exchange Act of 1934” and inserting the following: “equity securities listed for trading on a national securities exchange or traded through the facilities of a national securities association as described in Section 15A of the Securities Exchange Act of 1934”; and

(2) by striking “or” at the end of subparagraph (A), by inserting “or” after the semicolon at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

“(C) from the issuer of such securities, which issuer is described in section 2(a)(46)(A) and (B) but is not an eligible portfolio company because the aggregate value of its outstanding publicly traded equity securities is more than \$250,000,000 but not more than \$500,000,000, if such securities represent not more than 10 percent of the total assets of the business development company invested in securities described in paragraphs (1) through (6) of this section;”.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

#### GENERAL LEAVE

Mrs. KELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the Speaker very much for allowing me to bring this important legislation to the floor for consideration today. I also thank the gentlewoman from New York (Ms. VELAZQUEZ) for working with me on this important issue that will help small businesses.

Small businesses are the backbone of our economy, and the Congress must